

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

1. MARK HOWELL,)	
)	
Plaintiff,)	
)	
v.)	Case No. <u>CIV-20-960-PRW</u>
)	(Formerly Oklahoma County
1. DUIT HOLDINGS, INC., and)	Case No. CJ-2020-4071)
2. PIONEER TRANSPORT, INC.,)	
)	
Defendants.)	

NOTICE OF REMOVAL

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

Pursuant to 28 U.S.C. §§ 1331, 1441 and 1446, Defendants, Duit Holdings, Inc. and Pioneer Transport, Inc., (referred to herein as “Defendants”), hereby remove this action from the District Court of Oklahoma County, Oklahoma, where it was filed as Cause No. CJ-2020-4071, styled *Mark Howell v. Duit Holdings, Inc. and Pioneer Transport, Inc.*, to the United States District Court for the Western District of Oklahoma. As the grounds for removal, Defendants state as follows:

1. Plaintiff filed his Petition in this matter on August 28, 2020 in the District Court of Oklahoma County, Oklahoma, which is located within the Western District of Oklahoma.

2. Defendant Pioneer Transport, Inc. was served with Summons and the Petition on September 4, 2020. A copy of Plaintiff’s Petition is attached hereto as Exhibit “1”, and a copy of the Summons is attached hereto as Exhibit “2”. A Copy of the state court docket sheet is attached hereto as Exhibit “3”. Defendant Duit Holdings, Inc.

was not served. Instead Plaintiff issued a summons and served it on Duit Trucing, LLC who is not a named party to the suit or otherwise mentioned in the Petition.

3. This is a civil action over which this Court has original subject matter jurisdiction under the provisions of 28 U.S.C. § 1331. Plaintiff asserts claims for alleged violation of the Americans with Disabilities Act, and interference and/or retaliation under the Family Medical Leave Act (“FMLA”). *See* Plaintiff’s Petition, paragraph 3. Plaintiff’s claims arise under the laws of the United States and involve issues of federal question. Therefore, this court has jurisdiction under 28 U.S.C. § 1331 and this action may be removed to this Court pursuant to the provisions of 28 U.S.C. § 1441.

4. Plaintiff also brings state law claims which arise out of the same transaction or occurrence as his federal claims, and are part of the same case or controversy pursuant to 28 U.S.C. § 1367(a). Specifically, Plaintiff claims that Defendant violated the Oklahoma Anti-Discrimination Act. *See* Plaintiff’s Petition paragraph 3.

5. This Notice of Removal is timely because it is filed within thirty (30) days from the date Defendants received a copy of the Petition. See 28 U.S.C. § 1446(b).

6. As required by 28 U.S.C. § 1446(d), written notice of the filing of this Notice of Removal is being filed this day with the Clerk of the District Court of Oklahoma County, Oklahoma.

7. In accordance with LCvR 81.2, Fed. R. Civ. P. 81 and 28 U.S.C. § 1446(a), copies of all process and pleadings previously served upon Defendants, including a copy of the state court docket sheet, are attached hereto as Exhibits “1” through “4”.

8. There are no motions pending before the Oklahoma County District Court in this matter, nor are any hearings currently set.

WHEREFORE, Defendants remove this action to this Court pursuant to 28 U.S.C. §§ 1331, 1441 and 1446.

Respectfully submitted,

/s/ Nathan L. Whatley

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ATTORNEY FOR DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that on September 24, 2020 I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following registrants:

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/s/ Nathan L. Whatley

Nathan L. Whatley